

**MINUTES OF REGULAR MEETING
OF
GREENSBORO PLANNING BOARD
APRIL 20, 2005**

The Greensboro Planning Board met in regular session on Wednesday, April 20, 2005 at 2:00 p.m., in the City Council Chambers, 2nd floor, Melvin Municipal Office Building. Board members present were Tim Bryson, Chair Patrick Downs, Dick Hall, Julius Koonce, J.P. McIntyre, Stephen Marks and John Rhodes. Planning staff members present were Dick Hails, Planning Director, Alec MacIntosh, Steve Galanti, Art Davis, and Ricky Hurley.

**APPROVAL OF MINUTES OF THE MARCH 16, 2005 REGULAR MEETING AND THE
MARCH 14, 2005 JOINT MEETING WITH THE ZONING COMMISSION.**

Mr. MacIntosh pointed out some corrections that will be made to the March 14 minutes. Mr. Hall moved to approve the minutes of the Regular Meeting and of the Joint Meeting, as corrected, seconded by Mr. Bryson. The Board voted unanimously in favor of the motion.

PUBLIC HEARINGS:

**A. RESOLUTION CLOSING OLD BATTLEGROUND ROAD FROM 40 FEET NORTH OF THE
CENTERLINE OF HORSE PEN CREEK ROAD NORTHWESTWARD TO 100 FEET EAST
OF THE CENTERLINE OF BATTLEGROUND AVENUE, A DISTANCE OF
APPROXIMATELY 500 FEET. (CONTINUED)**

Jennifer Fountain, Isaacson, Isaacson & Sheridan, representing Granite Development, stated that there have been a few issues brought to their attention in discussions with City staff that they would like to resolve and bring this matter back before the Board at a later date.

Mr. Hall moved that this item be continued to the May meeting, seconded by Mr. Bryson. The Board voted unanimously in favor of the motion. (Ayes: Bryson, Downs, Hall, Koonce, McIntyre, Marks, Rhodes. Nays: None.)

**B. RESOLUTION CLOSING THE PORTION OF LEBANON ROAD LYING WITHIN THE CITY
LIMITS, RUNNING FROM JUST WEST OF REGIONAL ROAD NORTH NORTHWESTWARD
FOR APPROXIMATELY 2,254 FEET. (RECOMMENDED)**

Mr. MacIntosh stated that this street was dedicated in 1935 on the Property of Ham Real Estate subdivision (Plat Book 11, Page 4). Prior to the placement of concrete barricades, this paved street was open and maintained by the NCDOT. The street formerly continued outside the city limits at each end, but those sections have been closed by Guilford County. This closing petition, as well as those for Brush Road and Drum Road, have been signed by the Piedmont Triad Airport Authority as owner of 100% of the abutting property frontage. The southwestern end of the new runway, the one most of the FedEx flights will use, will extend beyond present Lebanon Road. That runway is the reason behind this and the following two street closings. There is an 8-inch water line in part of the street, but this water line no longer serves a public purpose and, therefore, no easement need be retained over it. No property is dependent upon this street for access, and it is not needed for general circulation in the area. The TRC recommends the closing.

Barden Cooke, 100 S. Elm Street, stated that he is an attorney representing the Airport Authority. He has nothing to add but is available to answer questions the Board may have on any of the three closings.

Mr. Hall moved to recommend the street closing to City Council, seconded by Mr. McIntyre. The Board voted 7-0 in favor of the motion. (Ayes: Bryson, Downs, Hall, Koonce, McIntyre, Marks, Rhodes. Nays: None.)

C. RESOLUTION CLOSING BRUSH ROAD FROM LEBANON ROAD SOUTHWARD TO CANOE ROAD, A DISTANCE OF APPROXIMATELY 1,224 FEET. (RECOMMENDED)

Mr. MacIntosh stated that this block of Brush Road was dedicated on the same subdivision plat as Lebanon Road. It is paved and City-maintained, but the northern third of this block is barricaded off. South of that barricade are three remaining houses that appear to be occupied. Two are scheduled to be vacated before May, and the third is scheduled to be vacated no later than May 31. There are 8-inch water and sewer lines in this section of the street. Water Resources advises that no water easement need be retained and that a 20-foot sewer easement will need to be retained only a short distance north from Canoe Road, so as to reach 10 feet past the first manhole. Once the houses are vacated, no property will be dependent upon this street for access. This street is not needed for general circulation in the area. The TRC recommends the closing, effective May 31, 2005.

Mr. Hall moved to recommend the street closing to City Council, as recommended by TRC, but effective as soon as the last resident has vacated, seconded by Mr. Bryson. The Board voted 7-0 in favor of the motion. (Ayes: Bryson, Downs, Hall, Koonce, McIntyre, Marks, Rhodes. Nays: None.)

D. RESOLUTION CLOSING DRUM ROAD FROM LEBANON ROAD SOUTHWESTWARD FOR 485.25 FEET ALONG ITS WESTERN SIDE AND 472.32 FEET ALONG ITS EASTERN SIDE. (RECOMMENDED)

Mr. MacIntosh stated that this closing petition covers only the northern part of this block of Drum Road. Drum Road was dedicated on the Property of T. W. Mathews, R. V. Thompson, and L. D. Mathews subdivision (Plat Book 20, Page 9) in 1952. It is paved and City-maintained, but the portion requested for closing is barricaded off. There are no occupied buildings on this portion. There are no water or sewer lines in this section of the street. There are underground cables along this street. A 20-foot utility easement will be retained over each until no longer needed for public service. No property is dependent upon this street section for access, and it is not needed for general circulation in the area. The TRC recommends the closing.

Mr. Hall moved to recommend this street closing to City Council, seconded by Mr. Bryson. The Board voted 7-0 in favor of the motion. (Ayes: Bryson, Downs, Marks, Hall, Koonce, McIntyre, Rhodes. Nays: None.)

MODIFICATION REQUESTS:

A. REQUEST FOR MODIFICATION TO SECTION 30-6-13.6(C) TO ALLOW OVERHEAD POWER LINES BY DUKE POWER ALONG THE NORTH SIDE OF ELMSLEY DRIVE WITHIN THE ELMSLEY SQUARE SUBDIVISION. (DISAPPROVED)

Steve Galanti stated that this request is for Modification to Section 30-6-13.6(C) to allow overhead power lines by Duke Power along the north side of Elmsley Drive within the Elmsley Square Subdivision. Duke Power needs to install a bulk feeder line along Elmsley Drive from South Elm-Eugene Street to a point beyond the western boundary of the subdivision. Section 30-6-13.6 (C) requires electrical, community antenna television, and telephone utility lines within major subdivisions to be installed underground unless the Technical Review Committee (TRC) determines underground installation is inappropriate. On February 22, 2005, upon a presentation by Duke Power's engineer

requesting approval for overhead lines, the TRC decided that installation of underground lines was not inappropriate. TRC then discussed and approved a different arrangement, to allow the bulk feeder line to be installed underground through the shopping center parking lot with overhead crossings at the two stream locations. This decision was made based on the finding that underground lines were appropriate and that overhead lines at the location depicted on the plan would conflict with and violate the intended function of the landscaping required to be installed on the north side of Elmsley Drive per the Conditional District. Since that meeting Duke Power has determined this parking lot option is not feasible and requested a modification from TRC. The Development Ordinance provides three possible grounds for approval of a modification: Equal or Better Performance: A finding that equal or better performance in furtherance of the purposes of the Ordinance will result from the alternate standards portrayed on the plan. Physical Constraints: A finding that the size, topography, or existing development of the property or of the adjoining areas prevents conformance with the Ordinance. Other Constraints: A finding that a federal, state, or local law or regulation prevents conformance. On April 12, 2005, the TRC reviewed the modification to allow the installation of the overhead utilities located no more than 11 feet behind the curb for Elmsley Drive with the required plant material being relocated to the northern portion of the planting yard (common elements) and outside of Duke Power's utility easement. TRC recommended approval of the requested modification with the condition that all portions of the bulk feeder line be installed underground except for the two stream crossings. This decision was made based on the findings that the applicant's proposal, except for the stream crossings, did not meet any of the three grounds for a modification. Under Grounds #1 the applicant did not offer an alternative that adequately addressed the purposes of the Ordinance and the zoning conditions. But, under Grounds #2 the conflict with the retaining walls at the stream crossings makes it physically impossible to install the lines underground. Under Grounds #3 there is no federal, state, or local law or regulation that would prevent the installation of underground lines. Duke Power then appealed the TRC's decision on its request for a modification to the Planning Board.

Mr. Fox arrived and participated in the rest of the meeting.

In response to a question concerning why the City has an ordinance relating to the underground utilities, Mr. Galanti stated that the purpose of the ordinance is to allow for orderly development so that when a new development is initiated, all the utility lines are installed underground in an orderly fashion, and the second reason for the ordinance is an aesthetics reason so there are not so many overhead utilities.

Mr. Rhodes stated that the letter submitted points out that the proposed overhead line would be utilized to serve the commercial uses and future development. Once that feeder is in place, Duke Power would bury its service lines from the bulk feeder to individual users.

Mr. Galanti pointed out that their request is that the bulk feeder line on the north side of Elmsley Drive would be permanently overhead.

Chair Downs asked if there was anyone present to speak on this matter.

Edward Lord, 701 Green Valley Road, attorney representing Duke Power, stated that he was available to answer questions.

In response to questions, John Walsh, 2500 Fairfax Road, representing Duke Power, stated that if there is a break in an underground line the coordination with an overhead line is significantly different than coordinating underground lines, and when you combine the two it just makes it difficult and not as reliable as they would like to see. He stated that typically underground lines are more reliable and are not in the way of vehicles. The issue here is not strictly underground, it is going from

underground to overhead and back to underground and that makes it unreliable. He pointed out that there would also be problems with parking lots and the type of future uses in this particular area that would have an impact on reliability of their service.

Mr. Lord stated that Mr. Walsh expressed that while there may be some situations where an underground system would work, in this situation that is not a possibility because of the large culverts that do not allow underground installation of the bulk feeder lines. There has to be an above ground installation because underground creates problems for finding and tracking faults and creates issues with regard to repairing the lines. There is also a problem with the installation of the poles and guide wires in the parking lots, as that limits the number of parking spaces.

In response to questions, Mr. Hails stated that City department heads involved with development met with Mr. Walsh and others to talk over the initial concerns and it was determined that the purpose of the ordinance was proper utility service and aesthetic issues. Once they learned more details about the difficulties of burying underneath the streams, staff suggested varying the underground requirement only at the two crossings at the creeks on the site. That was the TRC recommendation. The location of the proposed lines has been slightly changed. In response to further questions, Mr. Hails stated that there is not a major difference in what Duke Power had heard from staff before.

Tonya Powell, 701 Green Valley Road, attorney representing Granite Development, stated that Granite and Duke Power have worked on this matter for several months and there are major topographical challenges with the site. There are two creeks running through the property which add to the problems related to the property.

In response to a question, Mr. Walsh stated that they have always considered this to be a project that would use an overhead line because of the topography of the land and because this is a typical situation where a bulk feeder line would be used. He felt this situation did not fall into within the subdivision ordinance.

Mr. Walsh added that he does not feel this is truly just a cost issue; it is also an issue about the reliability of the service of this line to all users in the area. He stated he understands the concern about setting a precedent, but there are very few developments where there are these kinds of topographical challenges.

Mr. Hall stated that the developer went ahead and built the streets and built the culverts and now the Board is expected to help fix something that was not addressed when the developer went forward and made no provisions for the power.

Mr. Walsh pointed out that normally in a subdivision there is a dedicated utility right-of-way and in this particular area it does not exist. The right-of-way is a 20-foot swath of land that gives Duke Power the ability to put the facilities in underground and to repair them when necessary in the future.

Mr. Hall asked if the problem could be resolved if Duke Power can get cooperation from the State to run the line underground down the highway right-of-way behind the buildings. Mr. Hails stated that would meet the City requirement of having it underground.

In making comments, Chair Downs stated that when he was active as a shoreline planner he reviewed many applications for gas lines and very large capacity electrical lines, crossing major rivers and all sorts of water courses. He is extremely skeptical that Duke Power cannot build an underground power line for the length of this distance and is of the opinion that major users in that area will not

go unsupplied. He feels this is an issue of dollars and cents and aesthetics and feels that the Board should vote for aesthetics.

Mr. Hall stated that there had been options mentioned by the representatives that could allow this power line to go from Elm Street to the end of this property underground. The Planning Department has indicated a willingness to work with them and accommodate that in a reasonable way to help it happen. If there is a method that can be accomplished, he feels that a dangerous precedent will be set if those methods are not addressed.

Mr. Hall moved to disapprove the requested modification, seconded by Mr. Marks. The Board voted 6-2 in favor of the motion. (Ayes: Bryson, Downs, Hall, Koonce, McIntyre, Marks. Nays: Fox and Rhodes.)

B. REQUEST FOR MODIFICATION OF ZONING CONDITION CONCERNING CROSS ACCESS BETWEEN OUTPARCELS 4, 5, 6, AND 7 WITHIN THE ELMSLEY SQUARE SUBDIVISION.

Mr. Galanti stated that this is a request for Modification of a Zoning Condition concerning cross access between four outparcels in Elmsley Square Subdivision. The Elmsley Square subdivision design of places Lots 4, 5, 6, and 7 along the eastern portion of the site without direct access to Elmsley Drive or South Elm-Eugene Street but with indirect access to those public streets via an interior private street. The zoning condition states that: "The property will be developed in accordance with a master development plan, which will provide for cross access among all parcels within the development." Upon submission of site plans for parcels in this development, the Technical Review Committee (TRC) has required connections between Lots 4 and 5 and between Lots 6 and 7 in accordance with this zoning condition. The developer is now requesting that instead of direct cross access via driveways that the interior private street be used to meet this zoning condition. The Development Ordinance provides the three possible grounds for approval of a modification. On April 12, 2005, the TRC reviewed and recommended approval of this modification based on the finding that the applicant's proposal met Grounds #1 Equal or Better Performance. TRC found that the alternative portrayed on the applicant's proposal adequately addressed the purpose and the intent of the zoning condition. Planning and GDOT staff involved in the rezoning reported to the TRC that the purpose behind this zoning condition was to confine the travel from business to business to internal travelways so as to keep it off South Elm-Eugene Street and Elmsley Drive.

Chair Downs asked if there was anyone wishing to speak in this matter and no one came forward.

Mr. Marks moved to approve the modification, seconded by Mr. Hall. The Board voted 8-0 in favor of the motion. (Ayes: Bryson, Downs, Fox, Hall, Koonce, McIntyre, Marks, Rhodes. Nays: None.)

ANNEXATION PETITIONS:

C. PROPERTY OF CAROLYN & DOROTHY MCNAIRY LIMITED PARTNERSHIP ON NORTH CHURCH STREET JUST SOUTH OF AIR HARBOR ROAD – 73.7-ACRE CONTIGUOUS ANNEXATION. (CONDITIONAL RECOMMENDATION)

Chair Down stated that he would recuse himself because of a conflict. Mr. Hall moved that Mr. Downs be recused, seconded by Mr. Marks. The Board voted 8-0-1 in favor of the motion. (Ayes: Bryson, Fox, Hall, Koonce, McIntyre, Marks, Rhodes. Nays: None. Abstained: Downs.)

Mr. MacIntosh said that this property abuts the primary city limits on its south side. It is not within the Tier 1 Growth Area. It is in Tier 3, primarily because of the cost of extending sewer service into this area. An application has been filed to amend the Comp Plan to place it into Tier One. There is only one small house, 5237 N. Church Street, now, but the property is proposed for development of a maximum of 160 houses. There is a 12-inch water line about 4,000 feet to the south, which the developer would have to extend along N. Church Street. There is no City sewer line to the property. The developer would have to install a lift station and 3,000-4,000 feet of force main. Fire service can be provided to this property easily. The City has just placed a temporary fire station on N. Church Street about 1.2 miles south of here; a permanent station there is scheduled to open in 2006. The Police Department estimates that, at full buildout, service can be provided with medium difficulty, with 0.59 additional officers needed. Other City services to this annexation would involve traveling about 4,000 feet beyond the Lakeshore Village subdivision, the last development now inside the city limits on N. Church Street. The TRC recommends the annexation, if City Council chooses to amend the Comp Plan.

John Cross, 230 N. Elm Street, attorney representing the applicant, presented a letter from the Water Resources Department and stated that the primary reason this is Tier 3 property is the fact that there was no anticipation that water and sewer would be able to reach this area. The Water Resources Department has committed to approving the extension of the City's water and sewer services to this project provided that the developer is responsible for the expenses.

Mr. Fox moved to recommend this annexation to City Council subject to a change in the Comp Plan reclassifying this to Tier I, seconded by Mr. Bryson. The Board voted 6-1-1 in favor of the motion. (Ayes: Bryson, Downs, Fox, Hall, Koonce, Marks, Rhodes. Nays: McIntyre. Abstained: Downs.)

**A. PROPERTY OF DELORES P. PARRISH ESTATE AT 105 MARSHALL SMITH ROAD –
1.85-ACRE CONTIGUOUS ANNEXATION. (RECOMMENDED)**

Mr. MacIntosh stated that this property abuts the primary city limits on its south and east sides. It is within the Tier 1 Growth Area (0-10 years) on the Growth Strategy Map in the Comprehensive Plan. It is occupied by a vacant house and is intended to become the site of a restaurant. There is a 12-inch water line across the property frontage in West Market Street. There is an 8-inch sewer line several hundred feet to the east in that street. The developer would have to extend that sewer line to serve this property. Fire service can be provided to this property with low difficulty (1.9 miles from a City station). The Police Department estimates that, at full buildout, service can be provided with low difficulty. It is estimated that 0.04 additional officers will be needed to serve this area. Other City services would be provided to this annexation in the same manner as already provided to property across the street to the south and to the east. The TRC recommends the annexation.

Mr. McIntyre moved to recommend the annexation to City Council, seconded by Mr. Rhodes. The Board voted 8-0 in favor of the motion. (Ayes: Bryson, Downs, Fox, Hall, Koonce, McIntyre, Marks, Rhodes. Nays: None)

**B. PROPERTY OF SSP PROPERTIES, LLC AT 3207 AND 3203 PLEASANT GARDEN ROAD –
9.78-ACRE CONTIGUOUS ANNEXATION. (RECOMMENDED)**

Mr. MacIntosh stated that this property abuts the primary city limits on its northwest side. The annexation petition covers the rear portion of the property; the front 170 feet is already inside the city limits. It is within the Tier 1 Growth Area. It is now occupied by some buildings behind a house. It appears they may have held some kind of business in the past. The petitioned-for portion of the property and the portion already inside the city are proposed for use as a shopping center with a car

wash. There is a 16-inch water line in Pleasant Garden Road. There is no sewer line at the property or downhill from it. There is a sewer line ending in Pleasant Garden Road just to the northeast of this property's frontage. It can probably be extended a short distance by the developer, who could then install a private lift station to pump to it. In approving an annexation petition, the City assumes no obligation to extend sewer at public cost. Fire service can be provided to this property easily (2.1 miles from a City station). The Police Department anticipates that, at full buildout, service can be provided with medium difficulty, with 0.07 additional officers needed. Other City services would be provided to this annexation in the same manner as already provided to the already-annexed part of the property. The TRC recommends the annexation.

Mr. McIntyre moved to recommend the annexation to City Council, seconded by Mr. Bryson. The Board voted 8-0 in favor of the motion. (Ayes: Bryson, Downs, Fox, Hall, Koonce, McIntyre, Marks, Rhodes. Nays: None.)

Mr. Hall left the meeting at 3:45 p.m.

D. PROPERTY OF REPLACEMENTS, LTD. ON THE NORTH SIDE OF KNOX ROAD – 24.89-ACRE SATELLITE ANNEXATION. (RECOMMENDED)

Mr. MacIntosh stated that this satellite annexation is from a utility agreement and annexation petition. The property is within the Tier 1 Growth Area. It is unoccupied now but figures to be developed in the future, most likely as an expansion of Replacements, Ltd. There is a 12-inch water line in Knox Road. There is a 12-inch sewer line alongside a stream near Knox Road. Fire service to this property involves substantial difficulty. As with the previous satellite annexations nearby, neither the nearest rural fire department nor the nearest City station can respond in a time frame even close to the desired response time. The Police Department estimates low difficulty in serving this property, with 0.51 additional officers needed. Other City services would be provided to this annexation in the same manner as to the already-satellite-annexed properties nearby. The TRC recommends the annexation.

Mr. Marks moved to recommend the satellite annexation to City Council, seconded by Mr. Fox. The Board voted 8-0 in favor of the motion. (Ayes: Bryson, Downs, Fox, Hall, Koonce, McIntyre, Marks, Rhodes. Nays: None.)

ITEMS FROM THE DEPARTMENT:

A. SCHEDULE FOR 2005-2011 CAPITAL IMPROVEMENTS PROGRAM AND 2005-2006 NEIGHBORHOOD SMALL PROJECTS PROGRAM.

Art Davis presented schedules and stated that thanks to the Neighborhood Congress and the additional workshops there was an increase in the number of proposals submitted. Staff is reviewing the proposals and getting feedback from the various departments, and recommendations will come to the Board at the May 18th meeting. There will also be a public hearing at that time.

Mr. Bryson left the meeting at 4:15 p.m.

B. SUMMARIZING OF ANNEXATION SERVICE IMPACTS IN STAFF PRESENTATIONS.

Mr. Hails stated that staff is trying to look at the importance of good community services and facilities and the need to ensure adequate infrastructure capacity to meet future needs for water, waste water, storm drains and solid waste management. To help the Board address these issues, as well as the health, safety and welfare issues, he will bring more information to next month's meeting.

Mr. Hails reported that City Council revisited the topic of possible merger of the Zoning Commission and Planning Board and at that time they indicated they are no longer interested in the topic.

APPROVAL OF ABSENCES:

The absence of Mr. Pike was approved.

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There being no further business before the Board, the meeting was adjourned at 4:25 p.m.

Richard W. Hails, AICP
Planning Director

RWH/jd